



February 20, 2015

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## HOUSE BILL No. 1016

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DIGEST OF HB 1016 (Updated February 18, 2015 7:25 pm - DI 77)

**Citations Affected:** IC 16-18; IC 16-35; IC 31-9; IC 31-34; IC 34-30; IC 35-45; IC 35-46; IC 35-52.

**Synopsis:** Newborn safety incubators. Requires that a qualified service provider that installs and operates a newborn safety incubator comply with the standards and protocols adopted by the department of health (state department). Requires the state department to adopt rules concerning the installation and operation of newborn safety incubators. Provides that a qualified service provider that operates a newborn safety incubator must register with the state department. Establishes requirements for a qualified service provider. Makes it a Class A misdemeanor for a person to knowingly or intentionally install or operate a newborn safety incubator without meeting the standards and protocols, and a Level 6 felony if the offense results in bodily injury to a newborn. Provides that a person who leaves a newborn in a newborn safety incubator is not obligated to disclose the parent's name or person's name. Makes it a Class A misdemeanor for a person to knowingly or intentionally place: (1) any item, with exceptions; or (2) an individual other than a newborn; in a newborn safety incubator.

**Effective:** July 1, 2015.

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**Cox, Clere, Brown C, Sullivan**

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January 6, 2015, read first time and referred to Committee on Public Health.  
February 19, 2015, amended, reported — Do Pass.

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HB 1016—LS 6099/DI 110





February 20, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1016

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-18-2-111.3 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2015]: **Sec. 111.3. "Emergency medical**
- 4 **services provider", for purposes of IC 16-35-9, has the meaning set**
- 5 **forth in IC 16-35-9-1.**
- 6 SECTION 2. IC 16-18-2-122 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 122. **(a) "Facility", for**
- 8 **purposes of IC 16-35-9, has the meaning set forth in IC 16-35-9-2.**
- 9 **(b) "Facility", for purposes of IC 16-41-11, has the meaning set forth**
- 10 **in IC 16-41-11-2.**
- 11 SECTION 3. IC 16-18-2-248.2 IS ADDED TO THE INDIANA
- 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 13 [EFFECTIVE JULY 1, 2015]: **Sec. 248.2. "Newborn", for purposes**
- 14 **of IC 16-35-9, has the meaning set forth in IC 16-35-9-3.**
- 15 SECTION 4. IC 16-18-2-248.3 IS ADDED TO THE INDIANA

HB 1016—LS 6099/DI 110



CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2015]: **Sec. 248.3. "Newborn safety incubator", for purposes of IC 16-35-9, has the meaning set forth in IC 16-35-9-4.**

SECTION 5. IC 16-18-2-302.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 302.4. "Qualified service provider", for purposes of IC 16-35-9, has the meaning set forth in IC 16-35-9-5.**

SECTION 6. IC 16-35-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 9. Newborn Safety Incubators**

**Sec. 1. As used in this chapter, "emergency medical services provider" has the meaning set forth in IC 16-41-10-1.**

**Sec. 2. As used in this chapter, "facility" means a building in which one (1) or more of the following are located:**

- (1) A hospital licensed under IC 16-21.**
- (2) A fire department or volunteer fire department of a unit (as defined in IC 36-1-2-23).**
- (3) A law enforcement agency (as defined in IC 35-47-15-2).**
- (4) A nonprofit corporation described in section 5(4) of this chapter.**

**Sec. 3. As used in this chapter, "newborn" means a child who is less than thirty-one (31) days of age.**

**Sec. 4. As used in this chapter, "newborn safety incubator" means a device that is designed to permit:**

- (1) a person to anonymously place a newborn in the device with the intent to leave the newborn; and**
- (2) another person to remove the newborn from the device and take custody of the newborn.**

**Sec. 5. As used in this chapter, "qualified service provider" means any of the following:**

- (1) A hospital licensed under IC 16-21.**
- (2) A fire department or volunteer fire department of a unit (as defined in IC 36-1-2-23).**
- (3) A law enforcement agency (as defined in IC 35-47-15-2).**
- (4) A nonprofit corporation that:**
  - (A) has been in existence for at least ten (10) years;**
  - (B) is qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code; and**
  - (C) has one (1) or more of the following as its exempt**



1           **purpose:**

2           **(i) Child welfare.**

3           **(ii) Religion.**

4           **(iii) Domestic violence prevention or intervention.**

5           **Sec. 6. A person may not install or operate a newborn safety**  
 6 **incubator unless the person is a qualified service provider that**  
 7 **meets the standards and protocols adopted by the state department**  
 8 **under this chapter.**

9           **Sec. 7. (a) A qualified service provider that installs a newborn**  
 10 **safety incubator in a facility of the qualified service provider shall**  
 11 **register with the state department.**

12           **(b) Beginning July 1, 2016, a qualified service provider that**  
 13 **meets the standards and protocols adopted by the state department**  
 14 **under this chapter may operate a newborn safety incubator in the**  
 15 **facility of the qualified service provider for the purpose of taking**  
 16 **custody of a newborn who is voluntarily left in the newborn safety**  
 17 **incubator.**

18           **Sec. 8. The state department shall adopt rules under IC 4-22-2**  
 19 **to do the following concerning the standards and protocols for the**  
 20 **installation and operation of newborn safety incubators:**

21           **(1) Establish the following requirements:**

22           **(A) Sanitation standards.**

23           **(B) Procedures to provide emergency care for a newborn**  
 24 **left in a newborn safety incubator.**

25           **(2) Establish requirements for the newborn safety incubator,**  
 26 **including the following:**

27           **(A) Manufacturing or manufacturer standards.**

28           **(B) Design and function requirements, including that the**  
 29 **newborn safety incubator satisfies all the following:**

30           **(i) Is accessible from the exterior of a facility.**

31           **(ii) Allows a newborn to be placed anonymously in the**  
 32 **newborn safety incubator from outside the facility.**

33           **(iii) The door or window of the newborn safety incubator**  
 34 **that allows access outside the facility automatically locks**  
 35 **after a newborn is placed in the newborn safety**  
 36 **incubator.**

37           **(iv) A person outside the facility is unable to access the**  
 38 **newborn safety incubator after a newborn has been**  
 39 **placed in the newborn safety incubator.**

40           **(v) Provides a controlled environment for the care and**  
 41 **protection of the newborn, including temperature,**  
 42 **humidity, and oxygen controls.**



(vi) Has a signal that notifies an emergency medical services provider within thirty (30) seconds of a newborn being placed in the newborn safety incubator.

(vii) Is accessible to an emergency medical services provider inside the facility.

(3) Prescribe the operating policies, supervision, and maintenance of the newborn safety incubator, including requiring that only an emergency medical services provider supervise the newborn safety incubator and take custody of a newborn.

(4) Establish procedures for the registering of qualified service providers that install newborn safety incubators.

(5) Prescribe the procedures and standards for inspections of the newborn safety incubator.

(6) Establish any other criteria the state department considers necessary to ensure the safety and welfare of a newborn placed in a newborn safety incubator.

**Sec. 9. (a)** A qualified service provider that installs a newborn safety incubator shall submit a completed registration form on a form prepared by the state department, that contains the information required by the state department.

(b) The state department may impose a reasonable registration fee to cover the cost of processing the registration.

**Sec. 10.** A service provider's registration for a newborn safety incubator:

(1) must be renewed annually;

(2) is not assignable or transferable;

(3) is issued only for the facility named on the registration form; and

(4) may be renewed each year upon the payment of a renewal fee in an amount established by the state department.

**Sec. 11.** A qualified service provider shall post a sign next to the qualified service provider's newborn safety incubator that reads: "Newborn Safety Incubator Only For Newborns Less Than 31 Days of Age. Placing Any Other Item or Individual In This Incubator Is A Class A Misdemeanor And Is Punishable By Confinement Up To One Year and A \$5,000 Fine."

**Sec. 12. (a)** If a qualified service provider ceases operating a newborn safety incubator, the qualified service provider shall:

(1) notify the state department not later than ten (10) days after the date the qualified service provider ceases using the newborn safety incubator; and



(2) remove the:

(A) newborn safety incubator; and

(B) sign described in section 11 of this chapter.

(b) If a qualified service provider notifies the state department under subsection (a)(1), the state department shall remove the qualified service provider's registration from the registry.

Sec. 13. The state health commissioner may take any of the following actions for a violation of any provision of this chapter or of the rules adopted under this chapter:

(1) Issue a letter of correction.

(2) Conduct a reinspection.

(3) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).

Sec. 14. A person who meets the standards and protocols adopted under section 8 of this chapter and is registered under this chapter is immune from civil liability for an act or omission relating to the:

(1) installation or operation of a newborn safety incubator; or

(2) removal of a newborn from a newborn safety incubator; unless the act or omission constitutes gross negligence or willful or wanton misconduct.

Sec. 15. The removal of an:

(1) item; or

(2) individual other than a newborn;

from a newborn safety incubator by an emergency medical services provider does not constitute a violation of this chapter.

Sec. 16. The state department may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 17. A person who knowingly or intentionally installs or operates a newborn safety incubator without complying with the standards and protocols adopted under section 8 of this chapter commits a Class A misdemeanor. However, the offense is a Level 6 felony if it results in bodily injury to a newborn.

SECTION 7. IC 31-9-2-44.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 44.2. "Facility", for purposes of IC 31-34-2.5, has the meaning set forth in IC 16-35-9-2.

SECTION 8. IC 31-9-2-82.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 82.5. "Newborn safety incubator", for purposes of IC 31-34-2.5, has the meaning set forth in IC 16-35-9-4.

SECTION 9. IC 31-9-2-100.7 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2015]: **Sec. 100.7. "Qualified service provider", for purposes of IC 31-34-2.5, has the meaning set forth in IC 16-35-9-5.**

SECTION 10. IC 31-34-2.5-1, AS AMENDED BY P.L.128-2012, SECTION 158, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) An emergency medical services provider shall, without a court order, take custody of a child who is, or who appears to be, ~~not more than thirty (30) less than~~ **thirty-one (31)** days of age if:

(1) the child is voluntarily left:

(A) with the provider by the child's parent; **or**

(B) **in a newborn safety incubator at a facility of a qualified service provider;** and

(2) the parent does not express an intent to return for the child.

(b) An emergency medical services provider who takes custody of a child under this section shall perform any act necessary to protect the child's physical health or safety.

(c) Any person who in good faith voluntarily leaves a child:

(1) with an emergency medical services provider; **or**

(2) **in a newborn safety incubator at a facility of a qualified service provider;**

is not obligated to disclose the parent's name or the person's name.

SECTION 11. IC 34-30-2-70.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2015]: **Sec. 70.6. IC 16-35-9-14 (Concerning persons who install, operate, or remove a newborn from a newborn safety incubator).**

SECTION 12. IC 35-45-21-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2015]: **Sec. 6. (a) The following definitions apply throughout this section:**

(1) "Newborn" has the meaning set forth in IC 16-35-9-3.

(2) "Newborn safety incubator" has the meaning set forth in IC 16-35-9-4.

(b) A person who knowingly or intentionally places any:

(1) item, except as provided in subsection (c); **or**

(2) individual other than a newborn;

**in a newborn safety incubator commits tampering with a newborn safety incubator, a Class A misdemeanor.**

(c) For purposes of subsection (b), "item" does not include any item placed in a newborn safety incubator with a newborn that is





1 **intended to provide comfort, support, or information to the**  
 2 **newborn or information about the newborn.**

3 SECTION 13. IC 35-46-1-4, AS AMENDED BY P.L.168-2014,  
 4 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2015]: Sec. 4. (a) A person having the care of a dependent,  
 6 whether assumed voluntarily or because of a legal obligation, who  
 7 knowingly or intentionally:

8 (1) places the dependent in a situation that endangers the  
 9 dependent's life or health;

10 (2) abandons or cruelly confines the dependent;

11 (3) deprives the dependent of necessary support; or

12 (4) deprives the dependent of education as required by law;

13 commits neglect of a dependent, a Level 6 felony.

14 (b) However, the offense is:

15 (1) a Level 5 felony if it is committed under subsection (a)(1),

16 (a)(2), or (a)(3) and:

17 (A) results in bodily injury; or

18 (B) is:

19 (i) committed in a location where a person is violating

20 IC 35-48-4-1 (dealing in cocaine or a narcotic drug) or

21 IC 35-48-4-1.1 (dealing in methamphetamine); or

22 (ii) the result of a violation of IC 35-48-4-1 (dealing in

23 cocaine or a narcotic drug) or IC 35-48-4-1.1 (dealing in

24 methamphetamine);

25 (2) a Level 3 felony if it is committed under subsection (a)(1),

26 (a)(2), or (a)(3) and results in serious bodily injury;

27 (3) a Level 1 felony if it is committed under subsection (a)(1),

28 (a)(2), or (a)(3) by a person at least eighteen (18) years of age and

29 results in the death of a dependent who is less than fourteen (14)

30 years of age; and

31 (4) a Level 5 felony if it is committed under subsection (a)(2) and

32 consists of cruel confinement or abandonment that:

33 (A) deprives a dependent of necessary food, water, or sanitary  
 34 facilities;

35 (B) consists of confinement in an area not intended for human  
 36 habitation; or

37 (C) involves the unlawful use of handcuffs, a rope, a cord,  
 38 tape, or a similar device to physically restrain a dependent.

39 (c) It is a defense to a prosecution based on an alleged act under this  
 40 section that:

41 (1) the accused person left a dependent child who was, at the time

42 the alleged act occurred, **not more than thirty (30) less than**



**thirty-one (31)** days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under section 9(b) of this chapter;

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Level 6 felony.

SECTION 14. IC 35-52-16-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 23.5. IC 16-35-9-17 defines a crime concerning newborn safety incubators.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1016, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 7, delete "receives a license from" and insert **"meets the standards and protocols adopted by"**.

Page 3, delete lines 8 through 10, begin a new paragraph and insert:

**"Sec. 7. (a) A qualified service provider that installs a newborn safety incubator in a facility of the qualified service provider shall register with the state department."**

Page 3, line 11, delete "A" and insert **"Beginning July 1, 2016, a"**.

Page 3, line 11, delete "receives a license" and insert **"meets the standards and protocols adopted by the state department"**.

Page 3, line 12, delete "install and".

Page 3, line 17, delete "licensing of" and insert **"standards and protocols for"**.

Page 3, delete line 19.

Page 3, line 20, delete "(2)" and insert **"(1)"**.

Page 3, line 24, delete "(3)" and insert **"(2)"**.

Page 4, line 5, delete "(4)" and insert **"(3)"**.

Page 4, line 10, delete "(5)" and insert **"(4)"**.

Page 4, line 10, delete "issuance, renewal, denial, and" and insert **"registering of qualified service providers that install newborn safety incubators."**

Page 4, delete lines 11 through 14.

Page 4, line 15, delete "(6)" and insert **"(5)"**.

Page 4, line 17, delete "(7)" and insert **"(6)"**.

Page 4, line 20, delete "An applicant must submit an application for a license" and insert **"A qualified service provider that installs a newborn safety incubator shall submit a completed registration form"**.

Page 4, line 21, delete "showing that:" and insert **", that contains the information required by the state department."**

Page 4, delete lines 22 through 35.

Page 4, line 36, delete "(c)" and insert **"(b)"**.

Page 4, line 36, delete "application" and insert **"registration fee to cover the cost of processing the registration."**

Page 4, delete line 37.

Page 4, line 38, delete "license to install and operate" and insert **"service provider's registration for"**.



Page 4, line 40, delete "expires one (1) year after the date of issuance;" and insert "**must be renewed annually;**".

Page 4, line 42, delete "in the application;" and insert "**on the registration form;**".

Page 5, line 3, delete "that holds a license under".

Page 5, line 4, delete "this chapter".

Page 5, line 19, delete "designate the" and insert "**remove the qualified service provider's registration from the registry.**".

Page 5, delete lines 20 through 26.

Page 5, delete line 31.

Page 5, line 32, delete "(3)" and insert "**(2)**".

Page 5, delete lines 33 through 34.

Page 5, line 35, delete "(6)" and insert "**(3)**".

Page 5, line 37, delete "licensed" and insert "**who meets the standards and protocols adopted under section 8 of this chapter and is registered**".

Page 6, delete line 6.

Page 6, line 7, delete "17." and insert "**16.**".

Page 6, line 9, delete "18." and insert "**17.**".

Page 6, line 10, delete "a license under" and insert "**complying with the standards and protocols adopted under section 8 of**".

Page 6, line 35, delete "that holds a license under IC 16-35-9;" and insert ";".

Page 7, line 1, delete "that holds a license under IC 16-35-9;" and insert ";".

Page 9, line 1, delete "IC 16-35-9-18" and insert "**IC 16-35-9-17**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1016 as introduced.)

CLERE

Committee Vote: yeas 12, nays 0.

